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Conference

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 CAN'T STOP PRODUCTIONS, INC.,

4 Plaintiff,

5 v.

17 CV 6513 CS

6 SIXUVUS, LTD., et al.,

7 Defendants.

8 -----x

United States Courthouse  
White Plains, N.Y.

July 18, 2019

10:00 a.m.

9 Before:

11 THE HONORABLE CATHY SEIBEL,

12 District Judge

13 APPEARANCES

14 EISENBERG TANCHUM & LEVY

15 Attorney for Plaintiff Can't Stop Productions  
16 STEWART L. LEVY

ADELMAN MATZ, P.C.

17 Attorneys for Defendants Sixuvus, Ltd., et al.  
18 GARY P. ADELMAN  
SARAH MICHAL MATZ

19 KAREN WILLIS, Intervenor (Appearing telephonically)  
20 *doing business as*  
Harlem West Entertainment

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1 (In open court)

2 THE DEPUTY CLERK: In the matter of Can't Stop v.  
3 Sixuvus.

4 THE COURT: Good morning, Mr. Levy, Ms. Matz, and  
5 Mr. Adelman.

6 And Ms. Willis, can you hear me?

7 MS. WILLIS: Good morning.

8 THE COURT: Everyone can have a seat.

9 We have a number of things percolating. Ms. Willis  
10 has made an application to recover on the bond that Sixuvus  
11 posted. We'll set a schedule for formal briefing on that. The  
12 motion to intervene was still out there.

13 Last time we were here on this case, the parties were  
14 going to try to settle, which obviously didn't happen because  
15 the new lawsuit is filed. And failing that, the parties were  
16 supposed to confer on a briefing schedule for the motion to  
17 intervene, which I don't think ever happened.

18 Separately, there is a letter motion, which  
19 originally was to dissolve the March 16 T.R.O., which is now, I  
20 guess, an application for me to enforce it in some fashion,  
21 either by issuing a new order or contempt. I'm not really  
22 clear. I'm going to let everybody brief everything, but I want  
23 to take up the last one first.

24 Ms. Willis, I'm sure, is right that I don't  
25 understand everything that the parties may understand about

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1 Facebook, and I certainly don't understand technically how it  
2 works, but I do know what I meant when I entered the order, and  
3 what I meant was that the Sixxvus had to stop going around  
4 acting as though they were still Village People, and it seems  
5 to me that they did that. They aren't running, as far as the  
6 public can see, anything relating to the Village People or the  
7 Village People website. Whether, in the bowels of Facebook, in  
8 some technical way involving zeros and ones, the Kings of Disco  
9 page, in a way invisible to the public, has some technical  
10 relationship to the old Village People page is not really my  
11 concern. My concern is what the public can see and whether the  
12 public can be confused, and I don't see how that is happening,  
13 or can be happening now. So, I don't see the need for any  
14 emergency relief, but I'm going to let everybody brief  
15 everything. I did raise a question about the six hats. And  
16 the defendants, in their response, made the point that that's  
17 not covered by the T.R.O. I'm not saying it is. This, it  
18 seems to me -- whether that's kosher is going to turn on what  
19 rights the plaintiff has in the trade dress, and I'm sure I  
20 will be hearing from the parties on that as the case proceeds.

21 When we were last here on this case, it looked like  
22 at least Can't Stop and the Sixxvus were getting to "yes," and  
23 it seemed like Ms. Willis was interested in discussing that,  
24 and then obviously everything went down the tubes, or a least a  
25 lot went down the tubes because we had the previous -- the

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1 other lawsuit and the hearing on that in 19 CV 4354.

2 I gather there haven't been any three-way discussions  
3 since then.

4 MR. ADELMAN: Not three way, but Mr. Levy and I have  
5 had - and Mr. Besser - have had several conversations since the  
6 previous lawsuit was withdrawn. That reactivated the interest  
7 in Can't Stop and Sixxvux to settle this, and we're close.

8 MR. LEVY: We're close.

9 THE COURT: I know Mr. Levy doesn't like coming here,  
10 but in some respects, he's the voice of reason in this.

11 MR. ADELMAN: Well, --

12 THE COURT: I don't mean the other parties are  
13 unreasonable. I just mean that he and his clients, I don't  
14 want to say they're caught in the middle because the problem is  
15 of their making, but they are in the middle, trying to maintain  
16 good relationships with both groups.

17 And it seems, although I can't know what's going on  
18 behind the scenes, it seems like Mr. Levy's clients are  
19 communicating with Ms. Willis, even if Mr. Levy isn't. I would  
20 just love to get everybody in a room. I don't know if that's  
21 practical given Ms. Willis is in California and Can't Stop is  
22 in France and here we are in New York.

23 MR. ADELMAN: I mean, it's impractical for other  
24 reasons, which I'd rather not discuss on the record.

25 MR. LEVY: We are close. I sent a draft settlement

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1 agreement to -- pardon me for not getting up --

2 THE COURT: That's fine.

3 MR. LEVY: I sent a draft agreement to Mr. Adelman on  
4 June 25th. His clients are overseas, and he has a lot of  
5 clients. I do speak to Mr. Adelman regularly. I think we're  
6 very close. He thinks he's close. But because of his clients  
7 being overseas, we had hoped to have this done before today,  
8 but it's taking longer.

9 As far as Ms. Willis is concerned, she speaks with my  
10 co-counsel, Robert Besser, and we sent over the draft  
11 agreement, the proposed draft. At least initially, it's just  
12 between Can't Stop and Sixuvus, but Mr. Besser showed her the  
13 prior draft that I agreed to make, gave me her comments. We  
14 incorporated her comments into the draft that I eventually sent  
15 on June 25th.

16 So, we think we're pretty close. We're trying to do  
17 it one at a time. We felt we would try to settle with Sixuvus  
18 and then we would go to Ms. Willis, because I think in one of  
19 the documents that Ms. Willis submitted in one of these cases,  
20 she said we agree with this; that, right now, the issue that  
21 she's raising is not so much trademark infringement but  
22 confusion by the public. And that's always our concern, as  
23 well.

24 At this stage -- there's a doctrine in the Second  
25 Circuit, and I think in every circuit, a doctrine called

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1 progressive encroachment, which, basically, it does not require  
2 us as a licensor to go after every perceived infringement or  
3 problem of a junior trademark user. And right now, we don't  
4 see that much happening. And to the extent that things come  
5 up, we're taking that into account, that mechanism, we're  
6 taking that into account in the settlement proposal that was  
7 made.

8 And without giving all the terms, I think I did  
9 mention to the Court previously that a key component is for the  
10 Court to have continuing jurisdiction over any disputes that  
11 would come up, and that would give everybody a forum without  
12 litigation, like a two-page letter, saying the hats are a  
13 problem, if we couldn't work it out, and put two pages in,  
14 there's a ruling, and that's it.

15 THE COURT: So I get to live with you guys for as  
16 long as I live. Awesome.

17 MR. LEVY: We like you so much.

18 THE COURT: Or Judge Smith.

19 MR. ADELMAN: Actually, to Mr. Levy's point, we're  
20 actually not litigating this case. What is happening is,  
21 Ms. Willis finds something to nitpick on, she sends you a  
22 letter, we respond, and now we're briefing three different  
23 motions. We're not actually litigating. And we don't want to  
24 litigate. We can come to terms. Can't Stop is the trademark  
25 owner. They don't have a problem with what my clients are

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1 doing.

2 THE COURT: Well, one of the things that we're going  
3 to litigate is whether Ms. Willis can intervene and on what  
4 basis.

5 MR. ADELMAN: Shouldn't that be the only thing we're  
6 focusing on at this point?

7 MS. WILLIS: I want to make sure I clarify something  
8 that he just stated on the record. Mr. Levy just stated on the  
9 record, and this is for clarification, that Can't Stop does not  
10 have a problem with what they're doing?

11 MR. LEVY: As far as we know, the only thing that's  
12 been brought to our attention was that they were performing --  
13 the Sixuvus group was performing in Holland at a festival where  
14 they were dressed in tuxedos, made no reference that we could  
15 see to Village People, and that the only reference that was  
16 brought to our attention was a newspaper article in Dutch  
17 saying that the Village People might be a surprise guest, and  
18 it was from a newspaper clipping. It didn't come from the  
19 Sixuvus group.

20 So, again, I know Ms. Willis was very riled up by  
21 that, but, again, following the doctrine of progressive  
22 encroachment, I don't think Can't Stop is obligated to sue on  
23 that. We don't think it rises to that level. We do want to  
24 protect the mark, and if we found there were problems -- I did  
25 mention to Mr. Adelman, we did not like the use of the hats,

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1 but that's something that, when we're talking settlement, I  
2 think it gets worked out. That's all.

3 THE COURT: Well, look, I think in terms of what  
4 order we should do things in --

5 MS. WILLIS: Your Honor, I want to make sure the  
6 record is clear here, and I want to make sure the record is  
7 clear with respect to what Mr. Levy is putting on the record in  
8 agreement possibly with Mr. Adelman, okay, so I want to make  
9 sure that this is clear here.

10 So, Sixuvus has gone around, really for quite a few  
11 months now, dressing as the Village People in their  
12 performances, and in some of the cases, they've done that  
13 subtly. And they have basically done Village People complete  
14 sets, for example, and there's a performing as if they're  
15 Village People, okay, they really are, with the exception of  
16 them coming on in some, what you call them, jogging suits and  
17 then they pull them off, and then they become Village People.

18 Am I to understand, Mr. Levy, you're saying on the  
19 record that you don't have a problem with that on behalf of  
20 Can't Stop?

21 THE COURT: He didn't say that. I didn't hear him  
22 say that.

23 MS. WILLIS: Your Honor, --

24 THE COURT: Hold on, Ms. Willis. Let me just finish  
25 my sentence.



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1           What I heard him say was that, what he understands to  
2 be going on currently, is the tuxedo show that some newspaper  
3 article, which is in Dutch, which I don't read, included the  
4 words Village People, and he and his clients don't think it's  
5 worth suing over that article.

6           I didn't hear him say anything about it being okay  
7 for Sixuvus to do full shows as Village People. And I assume  
8 this settlement that is percolating is going to include some  
9 parameters --

10           MR. LEVY: That's right.

11           MR. ADELMAN: Yes.

12           THE COURT: -- about the extent to which the Sixuvus  
13 can, in a tribute format or otherwise, include some Village  
14 People performance within their larger performance.

15           Look, the record, anybody can order it. It says what  
16 it says.

17           MS. WILLIS: Okay.

18           THE COURT: I did not hear anything suggesting that  
19 Can't Stop thinks it's fine for Sixuvus to perform as Village  
20 People.

21           MS. WILLIS: Well, Mr. Adelman made the broad  
22 statement that Can't Stop does not have a problem with what  
23 they're doing, that's why, your Honor. That's what he said.

24           THE COURT: Well, that was a present-tense statement.

25           MS. WILLIS: No, no, no, your Honor, no. He made it

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1 broad -- you did not ask him specifically, just deal with this  
2 issue. He meant in general.

3 Now, and I'm simply trying to clarify here, all I'm  
4 saying is, for example, I have never, with Mr. Besser nor  
5 Jonathan, we've never discussed Can't Stop litigating the issue  
6 of them with respect to them performing this maestro wear,  
7 never once did that come up. I don't know where the term  
8 mediation comes up. However, we did actually discuss some  
9 concerns over that, okay, of that article purporting that the  
10 Village People were actually performing with the maestro when  
11 the Village People were not. That's the extent of it, your  
12 Honor.

13 MR. ADELMAN: That's not the extent, your Honor.

14 MS. WILLIS: Well, --

15 MR. ADELMAN: First of all -- excuse me, Ms. Willis,  
16 I'm speaking.

17 The article was days before the festival and it  
18 conjectured that the Village People might be a surprise guest.  
19 It was some reporter making conjecture. Nothing -- there was  
20 no promotion, no marketing. The contract -- nothing suggested  
21 that the Village People were performing at all. André Rieu,  
22 who is very well respected and probably a hero in the  
23 Netherlands, made it very clear. My clients made it very clear  
24 on our Facebook page that everybody should reference any videos  
25 taken of the show as Kings of Disco, very clear on our Facebook

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1 page.

2 What Ms. Willis did was she posted on their Facebook  
3 page, calling André Rieu a fraud and saying all kinds of  
4 disparaging things about him, calling him and saying -- I'm not  
5 sure exactly what she said, because, again, I'm speaking to a  
6 Dutch lawyer, but it sounded like what she was saying is that  
7 she was going to sue them. So frankly --

8 MS. WILLIS: Your Honor, --

9 MR. ADELMAN: Excuse me, ma'am. I am still speaking.

10 THE COURT: Ms. Willis, hold on.

11 MS. WILLIS: Well, finish up.

12 MR. ADELMAN: What I meant by Can't Stop -- I'll  
13 finish when I'm ready. Jesus.

14 THE COURT: Take a deep breath, Mr. Adelman.

15 MR. ADELMAN: Thank you, your Honor.

16 What I meant was two-fold: one is, is that actually  
17 Mr. Levy and I discussed it, and I think Mr. Levy is saying  
18 exactly what Can't Stop means, is there was no cause for a  
19 lawsuit, so why should they bring one. And I agree. And what  
20 I meant by saying that we have done nothing wrong, is not only  
21 present tense, but I am sure if what Ms. Willis is saying about  
22 my clients and what they're doing was true, she would have  
23 already brought it to the attention of this Court half a dozen  
24 times, but my clients have been working with Can't Stop to find  
25 a suitable way for them to move forward as Kings of Disco.

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1 THE COURT: Look, we don't need to --

2 MS. WILLIS: Your Honor, --

3 THE COURT: The whole thing in the Netherlands is a  
4 side show, --

5 MR. ADELMAN: Yes.

6 THE COURT: -- at least as far as I'm concerned.

7 I understand that one or more of the parties may be  
8 worked up about it, but what I do is try to manage a lawsuit.  
9 And right now, we have a lawsuit in which Can't Stop is suing  
10 Sixuvus, and Ms. Willis has provisionally intervened.

11 If I remember, and you guys will correct me if I'm  
12 wrong, she has made a motion to intervene and we have to  
13 schedule the other parties' responses.

14 Am I right about that?

15 MS. MATZ: Yes, your Honor, although -- may I raise  
16 one issue.

17 THE COURT: Yes.

18 MS. MATZ: If your Honor will indulge me.

19 THE COURT: As long as it doesn't have to do with the  
20 Netherlands.

21 MS. MATZ: No. It has nothing to do with the  
22 Netherlands. I promise.

23 I do think one of the issues -- I just want to bring  
24 up that Ms. Willis did say in one of her letters that she  
25 intends to somehow amend her pleading. I know that one of the

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1 issues with respect to whether or not someone is allowed to  
2 intervene rests on the types of claims they are asserting.

3           So, only in terms of efficiency, frankly, for my  
4 clients and the Court, I think that to the extent Ms. Willis  
5 plans on amending her pleading and the Court is going to  
6 entertain that application, it would be helpful for that to  
7 happen prior to the time that the intervenor motion is briefed,  
8 only because if we brief the intervenor motion and then she  
9 amends and we have to rebrief it because the change has some  
10 impact on it, I think that that would probably not be the most  
11 efficient use of anyone's resources.

12           THE COURT: That's not a bad point.

13           Is it your desire to amend, Ms. Willis?

14           MS. WILLIS: Yes, it is, your Honor, but however, I  
15 must return here back to the Netherlands here. I can't allow  
16 Mr. Adelman to do his hit-and-run statement here without me  
17 responding on the record.

18           What actually happened, your Honor, what actually  
19 happened in the Netherlands, is that they did all the things  
20 that Mr. Adelman states, and André Rieu, by the way, after they  
21 fact, after they were called upon it. The truth of the matter  
22 is the newspaper reported it, and I have a print of the article  
23 that André Rieu was actually suggesting that the Village People  
24 were performing with him. It wasn't until later, when I  
25 actually complained, that they clarified it, much later.

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1 And also, your Honor, he's stating that there was no  
2 promotion. There was, in fact, promotion. We have a video  
3 with André Rieu promoting the fact that Village People were  
4 performing with him. So the truth of the matter is, before I  
5 actually complained, it was being widely reported that Village  
6 People were performing with André Rieu.

7 THE COURT: You've put that on the record. That's  
8 fine. André, whoever he is, is not a party here. I'm not  
9 worried about him. I'm worried about the parties that are in  
10 front of me. We have a bunch of --

11 MS. WILLIS: I wish you would tell Mr. Adelman's  
12 (inaudible) statement on the record. I'm simply trying to  
13 clarify here.

14 THE COURT: I've let you clarify. All I'm saying is,  
15 because this gentleman is not a party -- now both sides have  
16 put something on the record about what happened in the  
17 Netherlands that really doesn't have anything to do with me.  
18 So, let's now turn to what is percolating here.

19 We have the application to amend, the application to  
20 intervene, the motion to enforce the T.R.O., the motion to  
21 collect on the bond. I do think probably neither Ms. Willis  
22 nor the Sixxvuvus want to brief them all at the same time, and I  
23 don't think it would make sense to brief them all at the same  
24 time.

25 If you want to amend, Ms. Willis, I think it does

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1 make sense to do that before we get to the other things. What  
2 would you like to -- give me the "Reader's Digest" version of  
3 what amendments you'd like to make.

4 MS. WILLIS: I think, your Honor, you -- in a prior  
5 conference, you had indicated that you were leaning against  
6 allowing other parties to be named, for example, and so stuff  
7 like that would be, you know, meted out, the other parties, and  
8 it would basically mirror Can't Stop's claim with respect --  
9 with the exception of a couple of things.

10 MS. MATZ: If I may, typically when a party requests  
11 leave to amend, a proposed amended pleading is provided. And  
12 just so that this isn't as much of a moving target, I think it  
13 would be helpful if maybe Ms. Willis provided the proposed  
14 amendment, and then -- I don't think there needs to be a full  
15 briefing on it, but maybe we can just submit letters with any  
16 issues, and your Honor can rule and proceed.

17 MS. WILLIS: Your Honor, I actually did state that  
18 already. I already -- if you look at my communication, it  
19 states the proposed amendment in there. It did. And it states  
20 exactly what I said. It even talked about  
21 removing (inaudible), so it's been done.

22 THE COURT: I do remember reading that that was your  
23 intention.

24 Did you actually submit the proposed amended  
25 complaint?

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1 MS. MATZ: No, your Honor.

2 MS. WILLIS: I didn't. I can certainly submit the  
3 proposed complaint. That's not a problem here.

4 THE COURT: All right. So let's do this. How long  
5 would you need to do that?

6 MS. WILLIS: What is this -- I probably can do that  
7 within the next 30 days, 20, 30 days, I can probably do that.

8 THE COURT: All right. Today is July 18. August 18  
9 is a Sunday. So, Monday August 19th, Ms. Willis will submit a  
10 proposed amended complaint.

11 And a letter from the defendants stating their  
12 position, how long would you want for that?

13 MS. MATZ: Just the last two weeks of August are a  
14 little --

15 THE COURT: Vacation time?

16 MS. MATZ: Can we have until the 9th of September?  
17 Would that be acceptable to the Court?

18 THE COURT: Yes. And then you'll say either say,  
19 okay, fine, we don't object or here's why you shouldn't allow  
20 amendment. If there's going to be opposition, then I'll allow  
21 Ms. Willis to respond. Once I rule on that, then opposition to  
22 the motion to intervene seems like the next logical step.

23 MS. MATZ: Yes, your Honor, I would agree.

24 THE COURT: So, why don't we say that will be 30 days  
25 after I rule on the amended complaint --



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1 MS. MATZ: Yes, your Honor.

2 THE COURT: -- or you tell me that there's no  
3 opposition.

4 MS. MATZ: Yes, your Honor.

5 THE COURT: And then Ms. Willis, assuming you get  
6 opposition to the motion to intervene, how long would you like  
7 for your reply?

8 MS. WILLIS: About 20 days.

9 THE COURT: Okay, 20 days thereafter.

10 Once I rule on that, I'll schedule briefing on the  
11 motion to collect on the bond. And some day, maybe we'll even  
12 get to discovery.

13 MR. ADELMAN: Thank you.

14 MS. WILLIS: Your Honor, the motion to collect on  
15 bond cannot be withheld pending all of this. That's something  
16 that is already filed and it's supposed to be priority. It is  
17 not contingent on other things here, it's not at all. And so I  
18 object, your Honor, on the record here, if your Honor is  
19 stating that she's not prepared to move forward immediately on  
20 the briefing on that, because it's just not something that can  
21 be trailed. I have a right to seek that immediately.

22 THE COURT: Well, Ms. Matz, it does seem like even if  
23 I don't allow the intervention, that motion is still going to  
24 be out there because the T.R.O. did enjoin Ms. Willis.  
25 Ms. Willis, I think, is correct that the motion to collect on

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1 the bond isn't really contingent on the motion to amend or the  
2 motion to intervene, so why can't we have briefing on that on  
3 the same schedule --

4 MS. MATZ: Well, so --

5 THE COURT: -- as the motion to intervene?

6 MS. MATZ: First of all, are you taking the papers  
7 that she submitted previously as her moving papers on the bond?  
8 I was a little unclear about that.

9 THE COURT: I thought they were intended as such, but  
10 let me ask Ms. Willis.

11 Did you plan to make a more formal motion or was that  
12 your motion?

13 MS. WILLIS: No, that's the motion. All the points  
14 are there.

15 THE COURT: All right.

16 MS. WILLIS: They have the right to oppose it and of  
17 course, I can reply. And we're already on calendar on it, then  
18 I need to have it moved immediately. I don't want to wait.

19 THE COURT: I'm addressing your concern. I just said  
20 to Ms. Matz that I think you're right, that that motion is not  
21 contingent on the other motions.

22 If you want, Ms. Matz, I'll consider your letter as  
23 your opposition if you don't want to do anything more formal,  
24 either. And then it would just be Ms. Willis' reply, and then  
25 I can rule.

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1 MS. MATZ: I'm sorry. No, I think, your Honor, we  
2 would want to do something a little bit more formal.

3 THE COURT: All right. I think Ms. Willis has a  
4 point. We don't need to wait until the fall for that.

5 MS. WILLIS: Your Honor, I believe the Court should  
6 use discretion. If you take a look at -- it was a letter  
7 motion, Ms. Matz, the Sixuvus, they have opposed it. They  
8 opposed it, your Honor, in a letter opposition. In there, they  
9 made points, okay, so it's being briefed. The only thing  
10 that's missing, your Honor, is my reply to that. Instead, they  
11 want to go and review this. And I think your Honor has enough  
12 before her. Your Honor has my actual brief, moving papers.  
13 They have opposed it.

14 Now, your Honor, they could have chosen not to oppose  
15 it in their letter. They did. Look at the points they made.  
16 It's there.

17 THE COURT: Ms. Willis, you need to take a breath,  
18 also.

19 I said that opposition to the motions was not  
20 required. I asked for the equivalent of a pre-motion letter.  
21 I am not going to preclude formal opposition. I'm going to let  
22 them formally oppose.

23 MS. WILLIS: Okay.

24 THE COURT: So, how long, Ms. Matz, would you like  
25 for your opposition to the bond motion?

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1 MS. MATZ: Well, your Honor, I'm sorry. I just want  
2 to backtrack a moment. You asked me a question and I said one  
3 other thing and then we got a little sidetracked. And you  
4 asked me whether or not I did think it was impacted by the  
5 motion to intervene, and I'm just going to be frank with your  
6 Honor. I believe it could be, because you do need to remember  
7 also that the bond was posted with respect to the first T.R.O.  
8 that was when Ms. Willis was not a party to the case at all.

9 And I also think that because some of the things she  
10 has submitted as fees, and I think the law is pretty clear that  
11 she's not going to get it anyways, but to the extent your Honor  
12 might disagree with me, some of the things she has submitted as  
13 fees relate to her application to intervene, they relate to her  
14 pleadings and other things. And to the extent that she's not  
15 an intervenor, those things could be affected by those  
16 arguments.

17 MS. WILLIS: No.

18 THE COURT: I don't think that's so, because, really,  
19 the only fees that she would be entitled to collect from the  
20 bond would be those occasioned by the injunction, and that's a  
21 much narrower set of expenses than everything to do with this  
22 lawsuit.

23 So, I think whether or not I ultimately allow  
24 permanent intervention and whether it's as of right or  
25 discretionary, I still think the issue of whether the

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1 injunction resulted in any harm to Ms. Willis, that she can  
2 collect on from the bond, is right.

3 You can put in your opposition why you think that's  
4 not correct.

5 MS. MATZ: That's fair enough.

6 THE COURT: I think you are correct in your papers  
7 when you say that you can only collect from the bond that which  
8 was occasioned by the injunction, not that which was occasioned  
9 by the lawsuit writ large.

10 MS. MATZ: Okay.

11 MS. WILLIS: And I state that. In my brief, I  
12 clearly outline that these fees are all relevant. I'm not  
13 attempting to collect anything broad. If they want to discuss  
14 that, that's a part of their opposition. It's there.

15 And your Honor, also from the date -- we have to be  
16 careful here because there are some statutory times running,  
17 time limits here from the time that I actually filed that  
18 letter motion for them to respond here on it, so the Court  
19 should be concerned, should be wary of that.

20 THE COURT: I'm sorry. What statutory time limit are  
21 you referring to?

22 MS. WILLIS: Well, for example, when you file a  
23 motion, right, there's a motion that's filed before the Court,  
24 there's a certain amount of time allotted for the opposition.

25 THE COURT: Well, in the absence of an order to the

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1 contrary, the local rule governs, but I'm about to enter an  
2 order to the contrary, but I would like to see it before you go  
3 on vacation, Ms. Matz.

4 So, when can you file your opposition to the bond  
5 motion?

6 MS. MATZ: Can we have until the 19th of August?  
7 That's about 30 days.

8 THE COURT: And then how long for your reply,  
9 Ms. Willis?

10 MS. WILLIS: Your Honor, I think 30 days is too long.  
11 I oppose that.

12 MS. MATZ: Your Honor, --

13 THE COURT: It's within my discretion. I'm going to  
14 allow it.

15 MS. WILLIS: Okay.

16 THE COURT: We're all very busy. I don't know that I  
17 would even, if it were filed sooner, that I would get to it any  
18 sooner.

19 How long would you like after August 19 for your  
20 reply?

21 MS. WILLIS: I have to look at my schedule here.  
22 About 20 days later.

23 THE COURT: Let's see. September 9th is 21 days  
24 later.

25 MS. WILLIS: Okay.

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1 THE COURT: So, the proposed amended complaint is  
2 going to be filed August 19. September 9, the defendants are  
3 either going to say they don't object or they're going to  
4 submit a letter brief opposing.

5 If they do that September 9th, and this is one date I  
6 haven't set, how long after that date would you like to respond  
7 to their opposition of September 9th?

8 MS. WILLIS: Well -- no, I had to reply on September  
9 9th.

10 THE COURT: You're filing the proposed amended  
11 complaint on August 19th. On September 9th, they're either  
12 going to say fine or we oppose for these reasons. And then  
13 you're entitled to reply to that.

14 MS. WILLIS: Right.

15 THE COURT: How long after September 9th --

16 MS. WILLIS: That's generally about 20 days after  
17 that.

18 THE COURT: All right. So, that would be  
19 September 30th. The 29th is the Saturday. And the  
20 30th -- no, the 29th is a Sunday, so September 30th.

21 And once I rule on that, we've set 30 days for the  
22 opposition to the motion to intervene, and the reply 20 days  
23 thereafter.

24 In the meantime, the opposition to the bond motion is  
25 going to be filed August 19th and the reply will be September

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1 9th.

2 And once the motion to intervene is decided, if I  
3 grant it, then we will move forward with discovery, but we'll  
4 need to know who the parties are before we can do that.

5 In the meantime, I feel like a broken record, but it  
6 seems crazy that, if there's an agreement floating out there  
7 that Can't Stop has proposed which takes into account the  
8 concerns that Ms. Willis expressed to Can't Stop, it seems just  
9 nuts to me that we can't resolve the whole case.

10 And I think if Ms. Willis wanted to be a full-time  
11 lawyer, she would have done that with her degree. I can't  
12 imagine she wants to spend her time briefing motions. I can't  
13 imagine Sixuvus and Can't Stop want to keep paying their  
14 lawyers.

15 I really hope that this agreement, which sounds like  
16 we're closing in on between Can't Stop and Sixuvus, is  
17 something that Ms. Willis will give serious thought to signing  
18 onto or signing onto a separate agreement that protects her  
19 rights but acknowledges that her rights are limited to her  
20 agreement with Can't Stop, and that there are going to be  
21 mechanisms in place if Sixuvus or Kings of Disco pushes their  
22 luck.

23 MS. WILLIS: Your Honor, you're absolutely correct.  
24 If this is the same reason that was represented to me from  
25 Can't Stop from Mr. Belolo, as well as Bob Besser, if this is



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1 the same, I have already given my blessings to it. It's my  
2 understanding it's the Sixuvus who is sort of dragging their  
3 feet here. So, yes, there is something that is before them now  
4 that I don't have a problem with.

5 THE COURT: That would be lovely. And I know all the  
6 performers are travelers, and it's not always easy to get  
7 everybody in the same room, but I suspect that Ms. Matz and  
8 Mr. Adelman are doing everything they can to wrestle that  
9 particular bear to the ground. And I'm sure the Sixuvus  
10 themselves would rather not to have keep paying lawyers if they  
11 can help it.

12 So, I'm sure there will be progress made. And if it  
13 can be made in the next four weeks, then all these papers that  
14 I've just described don't have to be filed, and that would be a  
15 lovely thing for all of you and for me.

16 Anything else we should do today?

17 MS. WILLIS: Yes.

18 MS. MATZ: May I ask one clarification question.

19 THE COURT: Yes.

20 MS. MATZ: And that is, with respect to Ms. Willis'  
21 letters for clarification of the March 16, 2019, T.R.O., your  
22 Honor expressed what you intended orally earlier at this  
23 conference. Are we to take that as the order on the  
24 clarification? I don't really believe any further briefing is  
25 necessary on this issue.

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1 THE COURT: Agreed. The point is, and I think  
2 everybody agrees, that as far as what the public can see, the  
3 Sixuvus are not representing themselves to be Village People,  
4 and I am unconcerned if, as I said, as a matter of computer  
5 science, the page that's now Kings of Disco is what used to be  
6 the official Village People.

7 Now, the disposition of the "likes," I think I've  
8 said before, this is a new area, and maybe there will be case  
9 law that convinces me otherwise or maybe there will be argument  
10 that convinces me otherwise when we get to summary judgment,  
11 but it seems to me that when somebody "liked" the Village  
12 People page in 2016, they were not "liking" the name Village  
13 People; they were "liking" the group.

14 So, if those "likes" follow the performers --

15 MS. WILLIS: Your Honor, --

16 THE COURT: Ms. Willis, I am talking.

17 MS. WILLIS: Okay.

18 THE COURT: If those "likes" follow the performers to  
19 a page that now says Kings of Disco, that doesn't seem wrong to  
20 me. However, as I said, there may be case law that I'm not  
21 aware of or there may be arguments that haven't yet been made  
22 that would convince me otherwise at the appropriate time. But  
23 right now, it seems to me the people who clicked "like" were  
24 not saying, oh, I like the words "village" and "people" next to  
25 each other; they were saying I like these particular

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1 performers. Just like if somebody "likes" Mr. Willis, and  
2 whenever the license expires, Can't Stop gives it to a third  
3 party, I don't think that third party would be allowed to  
4 represent that the people who "liked" Mr. Willis really liked  
5 it. So, I hope that's enough clarification.

6 I'm not going to require any further machinations  
7 within Facebook. I don't see any chance that the confusion  
8 that was the reason for the order persists. And it seems to me  
9 the order allowed for the disabling of the account in any  
10 number of ways, one of which was specified, but not mandated.  
11 So, I don't think anything further is needed on that.

12 MS. MATZ: So we can --

13 MS. WILLIS: May I now, your Honor. First, I want to  
14 say, your Honor, I object to each and every aspect of the  
15 statement that you put on the record. Each and every aspect, I  
16 object to it.

17 I want to remind the Court that the only way that  
18 what your Honor stated could be, I guess, a fact, would be that  
19 if, in fact, the Facebook page was that of the Sixuvus, and  
20 then the Court can actually argue that, you know what? They  
21 like the Sixuvus. Who are the Sixuvus? Oh, they're those  
22 individual people that's a part of that corporation.

23 Your Honor here is putting on the record that when  
24 the public "liked" Village People, they "liked" the actual  
25 individual members who were performing as Village People, and I

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1 object to that. Just for the record, I don't think that is  
2 correct. I believe that's error, but your Honor, I don't have  
3 to argue any further on it, but I put on the record that I  
4 object to each and every aspect of your Honor's assessment of  
5 this.

6 THE COURT: When we get to discovery, maybe you'll be  
7 able to gather evidence that will convince me I'm wrong, but  
8 right now, that's my impression.

9 Also, I think, even if you were correct, I think the  
10 party that would be entitled to direct the disposition of those  
11 "likes" would be Can't Stop, but in any event, when we get to  
12 discovery, anybody can take depositions of the people who  
13 "liked" Village People back in 2016 and earlier. And if they  
14 say, Oh, what I liked was the words "village" and "people" next  
15 to each other as opposed to the performance of the people who  
16 were performing as Village People, maybe there will be  
17 something different. Or if they say, No, it didn't have  
18 anything to do with the people, it was just the notion of these  
19 six characters -- we'll see. I'm not ruling anything out. All  
20 I'm saying is, for now, I don't see any need for further papers  
21 on that.

22 MS. WILLIS: Your Honor, --

23 THE COURT: I understand you object, but that's --

24 MS. WILLIS: Your Honor, I want to make one other  
25 point of clarification here for the Court.

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1           Your Honor, that would be like saying that if you  
2 have a certified page for the Lion King, that they actually --  
3 when the people "liked" the Lion King page, they could happen  
4 like the particular performers that are in the Lion King at  
5 that time. It does not make sense, your Honor. I believe your  
6 Honor is not correct. I object, but thank you for putting it  
7 on the record, your Honor. I'm done with that part of it. I  
8 don't want to argue anymore.

9           THE COURT: All right. And I will hope that this  
10 will all go away for numerous reasons, but if it doesn't, I  
11 will look for the various submissions on the dates we have set.

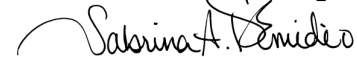
12           Thank you, all.

13           MS. MATZ: Thank you, your Honor.

14           MS. WILLIS: Thank you.

15           - - -

16 Certified to be a true and correct  
17 transcript of the stenographic record  
18 to the best of my ability.

19 

20 U.S. District Court  
21 Official Court Reporter